

UNITED STATES BANKRUPT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

IN RE:)
)
Evan Michael Anderson) Case No: 21-70656
) Chapter 13
Debtor)
ONELL GIBSON)
)
Plaintff,) Adversary No:
)
v.)
)
EVAN MICHAEL ANDERSON)
)
Defendant.)

COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

COMES NOW your Plaintiff, Onell Gibson, by counsel, and for its Complaint to Determine Dischargeability of Debt, under 11 U.S.C. §523(a)(6), states as follows:

1. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §1334.
2. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(I).
3. The Defendant, Evan Michael Anderson, is a debtor in a pending Chapter 13 bankruptcy case, filed in this Court, Case No: 21-70656.
4. In September, 2013, both parties were athletes at Emory and Henry College. A social was held on or about September 8, 2013. Both Mr. Gibson and the Debtor attended.
5. Suddenly and without provocation or justification, the Debtor attacked Mr. Gibson. He knocked Mr. Gibson to the ground and continued to beat him in the head and face.
6. The Debtor's behavior was intentional and malicious and showed disregard for human life and limb.
7. As a direct and proximate cause, Mr. Gibson suffered serious personal injuries with permanent ramifications; pain and suffering; emotional distress and mental anguish; he has incurred hospital, medical, pharmaceutical, and therapeutic expenses; and has suffered other losses.

8. The conduct of the defendant on September 8, 2013, was intentional, wanton, and reckless. As a result of his actions, punitive damages are appropriate.

9. In 2015, Plaintiff filed a Complaint in the Roanoke City Circuit Court, case number CL15001583-00. A copy of that Complaint is attached hereto as Exhibit A, and the allegations contained therein are incorporated in this Complaint. The Debtor filed an answer to the Complaint (Exhibit B).

10. The Complaint filed by the Plaintiff sought damages of \$750,000.00, as well as punitive damages of \$350,000.00.

11. Trial of the state court case was scheduled for September 28, 2021. The Debtor filed the present bankruptcy case on September 27, one day prior to the trial.

COUNT 1 - WILLFUL AND MALICIOUS INJURY TO THE
PLAINTIFF'S PERSON 11 U.S.C. 523 (a)(6)

12. Plaintiff realleges and reincorporates paragraphs 1 through 10.

13. Debtor did willfully and maliciously cause injury to the Plaintiff. Such debt should be excepted from discharge, pursuant to 11 U.S.C. §523(a)(6).

14. Plaintiff will also seek relief from the automatic stay in order to allow the case in the Roanoke City Circuit Court to proceed to trial. That case has been pending for six years, and from the perspective of judicial economy, it would be most efficient for that Court to resolve the issues of liability.

WHEREFORE the Plaintiff, Onell Gibson, by counsel, prays this Court to grant relief from the automatic stay in order to allow the Court case to proceed to trial, to declare that any such judgment ordered by the Court be excepted from discharge due to 11 U.S.C. §523(a)(6) because of the willful and malicious nature of the Debtor's actions, or if the Court deems it appropriate, to try this case in this Court, and that the Plaintiff would request trial by jury, and to grant such other and further relief as is just and equitable.

ONELL GIBSON

By: /s/Matthew D. Huebschman
Of Counsel

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